

COSTA RICA 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Costa Rica is a constitutional republic governed by a president and a unicameral legislative assembly directly elected in multiparty elections every four years. On April 3, voters elected Rodrigo Chaves of the new Democratic Social Progress Party as president during a second round of elections. All elections were considered free and fair.

The country has no military forces. Civilian authorities maintained effective control over the 13 agencies that have law enforcement components, including the judicial branch's Judicial Investigative Organization. The Ministry of Public Security is responsible for the uniformed police force, drug control police, border police, air wing, and coast guard. The Immigration Office is responsible for the immigration police. The Ministry of Public Works and Transportation supervises the traffic police, the Ministry of Environment supervises park police, and the Ministry of Justice manages the penitentiary police. Several municipalities manage municipal police forces. Civilian authorities maintained effective control over the security forces. There were reports of isolated instances where members of the security forces committed abuses.

There were no reports of significant human rights abuses.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses or engage in corruption.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

The law prohibits such practices, and there were no reports that government officials employed them.

Prison and Detention Center Conditions

Prison conditions were harsh due to overcrowding, inadequate sanitary conditions, difficulties obtaining medical care, and violence among prisoners.

Abusive Physical Conditions: Overcrowding was a problem. As of July, the prison population exceeded the designed capacity of prisons by 6 percent, according to official statistics, the lowest level in two decades. The drop in overcrowding was largely due to the opening in January of a new prison with capacity for 1,250 inmates. Although the Ministry of Justice made efforts to expand prison capacity further and improve conditions in accordance with international standards, some prisons, as well as the comprehensive care units (minimum-security prisons), remained overcrowded, with the population in pretrial detention experiencing the most overcrowding. Authorities held male pretrial detainees with convicted prisoners on occasion.

Poor conditions included inadequate space for resting, deteriorated mattresses on the floor, and inadequate access to health services. Illegal narcotics were readily available in the prisons, and drug abuse was common. The Ministry of Justice identified cell phone and Wi-Fi use within prisons as a continuing problem, with widespread reports of criminal activity and fraud carried out by phone. A 2018 law implemented a cell signal blocking solution through mobile phone operators while not including the Ministry of Justice, and the system's effectiveness was unclear.

Administration: The Ombudsperson's Office investigated all prisoner complaints, including credible allegations of mistreatment.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international and local human rights observers. The Office of the UN High Commissioner for Refugees (UNHCR) monitored the migration detention facility, and the Ombudsperson's Office monitored all other detention centers, with UNHCR visiting monthly and the ombudsperson preparing annual reports.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention and provides for the right for any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

The law requires issuance of judicial warrants before police may make an arrest, except where probable cause is evident to the arresting officer. The law entitles a detainee to a judicial determination of the legality of detention during arraignment before a judge within 24 hours of arrest. The law provides for the right to post bail and prompt access to an attorney and family members. Authorities generally observed these rights. Indigent persons have access to a public attorney at government expense. Those without sufficient personal funds are also able to use the services of a public defender. With judicial authorization, authorities may hold a suspect incommunicado for 48 hours after arrest or, under special circumstances, for up to 10 days. Special circumstances include cases in which pretrial detention previously was ordered and there is reason to believe a suspect may reach an agreement with accomplices or may obstruct the investigation. Suspects are allowed access to attorneys immediately before submitting statements before a judge. Authorities promptly inform suspects of any offenses under investigation. Habeas corpus provides legal protection for citizens against threats from police; it also requires judges to give a clear explanation of the legal basis for detention of and evidence against a suspect.

Pretrial Detention: Lengthy pretrial detention was a problem. According to the Ministry of Justice, as of July persons in pretrial detention constituted approximately 17 percent of the prison population, compared with 13 percent in

2021. The average length of pretrial detention was 90 to 180 days. In some cases, delays were due to pending criminal investigations and lengthy legal procedures. In other cases, the delays were a result of court backlogs. The length of pretrial detention generally did not equal or exceed the maximum sentence for the alleged crime. The law establishes that preventive detention should be proportional to the sentence for the alleged crime, and authorities generally complied with that mandate.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The law provides for the right to a fair and public trial, and the judiciary generally enforced this right.

All defendants have the right to the presumption of innocence, to be informed promptly and in detail of the charges, and to trial without undue delay. In practice, however, the legal system experienced significant delays in the adjudication of criminal cases and civil disputes.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

An independent and impartial judiciary presides over lawsuits in civil matters, including human rights violations. Individuals or organizations may seek civil remedies for human rights abuses through domestic courts or through administrative or other mechanisms established by law. Individuals and organizations may appeal adverse domestic decisions to regional human rights bodies.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home,

or Correspondence

The law prohibits such actions, and there was one report that the government failed to respect these prohibitions. In 2020 the Ombudsperson's Office reported that a data analysis unit created by then President Carlos Alvarado had access to confidential information of citizens. On August 17, the Supreme Court ruled the 2019 executive order that created the unit was unconstitutional.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

Violence and Harassment: On July 8, the Ministry of Health suspended the operating permit for Parque Viva, an event space owned by leading media company Grupo Nacion. The Ministry of Health argued that Parque Viva events posed a safety hazard due to the venue's single exit, which created hours' long traffic jams. Attendees would be stuck in the event of an emergency, and the ministry mandated that additional exits be added to remedy the issue. Parque Viva generated a large proportion of Grupo Nacion's income, and closing it created significant financial hardship for the media company. Former presidents, opposition legislators, and journalists expressed concern regarding the government's closure, accusing the Chaves administration of retaliating against Grupo Nacion's critical reporting during the presidential elections. The Inter American Press Association denounced the government's actions.

On October 21, the Supreme Court upheld a petition that a group of journalists from the daily newspaper *La Nacion* filed against the closure. According to the court, the government's action constituted an indirect violation of press freedom. The ruling annulled the Ministry of Health's July 8 order to close the facility.

President Chaves addressed the matter in an October 26 press conference, stating the government would comply with the court's finding and would reserve further comment until the court's full legal finding was published.

Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media: Observers expressed concerns regarding the government's interactions with the press. On August 4, a journalist filed a petition for constitutional protection against the minister of communication, accusing the ministry of a series of violations of press freedom, including creating government guidelines to deny interviews to two radio outlets and suspending public advertising in some media outlets. In an October 4 response, the Supreme Court warned communications officials against direct or indirect censorship of the media. On May 16, the Executive Office called a meeting with press officers of public institutions and allegedly instructed them to restrict the information they provided to the press.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private communications without appropriate legal authority.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these related rights.

e. Protection of Refugees

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. On January 19, the government signed an executive order to formalize the Comprehensive Refugee Response Framework as the national platform for discussion and coordination of refugee response in the country.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has an established system for providing protection to refugees. The law requires authorities to process the claims within three months of receipt, but there was an average two-month wait for appointments to file an asylum claim, and it took up to 10 years to complete the review and appeals processes. The Migration Authority Refugee Unit's capacity was overburdened by the sharply rising number of persons requesting asylum or refugee status since 2018, with the majority originating from Nicaragua. The government sought international support to bolster the Migration Authority's capacity.

As of November 30, the Appeals Tribunal, which adjudicates all migration appeals, had a backlog of 47 asylum cases, compared with approximately 280 in July 2021, but stated these figures would increase as pending claims moved to the appeals process. UNHCR provided support to the Refugee Unit and the Appeals Tribunal to hire additional legal and administrative personnel to assist with reduction of the backlog and to continue a process of regionalization of services.

Employment: Refugee regulations provide asylum seekers an opportunity to obtain work permits if they must wait beyond the three months the law allows for a decision on their asylum claim. After attending their initial appointment to file an asylum claim, applicants were automatically provided an identification document with a date on which they were authorized to work. In the case of professionals, refugees and asylum seekers faced significant bureaucratic processes in obtaining a license to practice locally.

Access to Basic Services: By law asylum seekers and refugees have access to public services and social welfare programs, but access was often hampered by

lack of knowledge about their status in the country, failure of service providers to recognize the identification provided to asylum seekers by the Migration Authority, and xenophobia among some service providers. For example, asylum seekers without employers (who constituted most asylum seekers) faced restrictions when enrolling voluntarily as independent workers in the public health system.

Asylum seekers received provisional refugee status documents legalizing their status after appearing for an interview with the Migration Authority, for which the estimated wait time was two months. Provisional refugee identity cards do not resemble other national identity documents, and although government authorities generally accepted them, many private citizens did not.

Refugees and asylum seekers reported that access to health services was difficult. They qualified for public health services only if they were minors, pregnant, or facing a life-threatening emergency, but some individuals reported being denied services even in emergency situations. From March to December, UNHCR covered health insurance for 6,000 of the most vulnerable refugees through an agreement with the social security system.

Durable Solutions: The government implemented a Protection Transfer Arrangement in coordination with UNHCR and the International Organization for Migration for refugee resettlement in third countries. For those obtaining refugee status, the government was committed to their local integration both legally and socially and to facilitating their naturalization process.

Temporary Protection: In 2020, the Migration Authority approved a temporary complementary protection program for Venezuelan, Nicaraguan, and Cuban immigrants who did not qualify for refugee status. As of March 31, the government provided temporary protection to 4,038 persons through this program. The program went into effect in 2020 and ended in March.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

Citizenship is obtained from birth within the country's territory or can be derived if either parent is Costa Rican. There continued to be problems of statelessness of indigenous children and children of seasonal workers in the border areas with Panama and Nicaragua, derived from the difficulties linked to birth registrations. Members of the Ngobe-Bugle indigenous group from Panama often worked on Costa Rican farms and occasionally gave birth there. In these cases, parents did not register Ngobe-Bugle children as Costa Rican citizens at birth because they did not think it necessary, although the children lacked registration in Panama as well. Government authorities worked with UNHCR on a program of birth registration and provision of identification documents to stateless persons. Mobile teams went to remote coffee-growing areas for case identification and registration. UNHCR and the National Civil Registry continued a project along the northern border for individuals of Nicaraguan origin to facilitate procedures for late birth registration. A 2021 executive order issued regulations to the law that protects the right to citizenship for transborder indigenous persons. The Ministry of Foreign Affairs is responsible for processing the applications for statelessness determination; the process is free, and the government provides free legal services to assist with the process.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: On April 3, voters elected Rodrigo Chaves of the new Democratic Social Progress Party as president during a second round of elections, after no candidate achieved 40 percent of the first-round vote. Presidential and legislative elections are simultaneous. In legislative elections, the National Liberation Party won the most seats, but it did not achieve a majority in the National Assembly.

Participation of Women and Members of Minority Groups: No laws limit

participation of women or members of historically marginalized groups in the political process, and they did participate.

Women, indigenous persons, and persons of African descent were represented in government, but persons with disabilities and openly lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons were not. On May 3, the government signed a law to prevent, address, punish, and eradicate violence against women in politics.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were reports of government corruption during the year. On April 4, then President Alvarado signed a bill into law that amended the municipal code to prohibit indefinite re-election of mayors as a measure to prevent corruption.

Corruption: On May 23, a court released six mayors from precautionary measures that included a prohibition on leaving the country and returned them to their posts, after they were detained briefly and suspended in November 2021 for alleged acts of corruption related to public works contracts. On March 26, a court released on bail the owners of two construction companies who were arrested as a preventive measure in a 2021 high-profile corruption case related to several highway construction projects.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

Government Human Rights Bodies: The Ombudsperson's Office reviews government action or inaction that affect citizens' rights and interests. The

ombudsperson is accountable to the National Assembly, which appoints the person to a four-year term and funds office operations. The ombudsperson participates in the drafting and approval of legislation, promotes good administration and transparency, and reports annually to the National Assembly with nonbinding recommendations. International institutions and nongovernmental organization observers recognized the Ombudsperson's Office as an independent and effective instrument for promoting human rights. During the year, civil society organizations, as well as Ombudsperson's Office officials and labor union representatives were critical of some of the decisions and opinions of the ombudsperson. For example, organizations accused the ombudsperson of withdrawing support for HIV-positive individuals, and a group of more than 50 women's advocacy organizations accused her of undermining the Office of the Defense of Women, which falls under the Ombudsperson's Office.

A special committee of the National Assembly studies and reports on problems relating to the violation of human rights and reviews bills relating to human rights and international humanitarian law.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, and domestic violence, and provides penalties from 10 to 18 years in prison for rape. The judicial branch generally enforced the law effectively.

The law prohibits domestic violence and provides measures for the protection of domestic violence victims. Criminal penalties range from 10 to 100 days in prison for aggravated threats and up to 35 years in prison for aggravated homicide, including sentences of 20 to 35 years for persons who kill their partners. The government enforced the laws effectively.

Violence against women and girls remained a serious problem. As of August, the government reported that 30 women had been killed, including seven killed by a partner or spouse. Authorities visited the southern Caribbean coastal region and

offered training to local police on domestic violence and violence against women and girls following an increase in the number of rapes in the region. Citizens were encouraged to report other sexual assaults in the region following the sexual assault of two foreign tourists on January 6.

Sexual Harassment: The law prohibits sexual harassment in the workplace and educational institutions, and the government enforced the law effectively. The law imposes penalties ranging from a letter of reprimand to dismissal, with more serious incidents subject to criminal prosecution. On October 27, the Chaves administration signed a decree for the creation of a national strategy aimed at eliminating discrimination and harassment against women.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

According to human rights experts, problems related to access to reproductive health services remained for lesbian and bisexual, indigenous, and Afrodescendant women, and women with disabilities.

There were some barriers to accessing contraception. The COVID-19 pandemic especially affected vulnerable populations' access to sexual and reproductive health services. A 2021 study by the UN Population Fund reported the country may have regressed by as much as five years with respect to access to short-term contraception caused by the lack of access to health services, either due to pandemic-related isolation measures, caregiving tasks that fall mainly on women (which increased during the pandemic), or lack of information. On May 5, health authorities announced that the public health system included emergency contraception as a method of family planning. Previously, emergency contraception was provided only to survivors of rape.

Some social barriers adversely affected access to skilled health-care providers during pregnancy and childbirth. Women in rural areas and indigenous women did not always have access to health care during childbirth due to geographic isolation. Some women had difficulty accessing prenatal care. Government regulations state that all pregnant women, including undocumented migrants and asylum seekers, have the right to health services. In practice, however, refugees and asylum

seekers reported that access to health services and reproductive health management services was difficult. Refugee and migrant advocates said this population qualified for public health services only if they were minors, visibly pregnant, or facing a life-threatening emergency, but some individuals reported being denied services even in emergency situations.

There was access to emergency health care, including services for the management of complications arising from abortion.

The government provided some access to sexual and reproductive health services for survivors of sexual violence. Human rights experts identified problems such as revictimization and access to antiretroviral therapy.

The indigenous territory of Talamanca was one of the poorest cantons in the country. The birth rate of girls and adolescents in the Talamanca region was 19.7 births per 1,000 in 2021, compared with the national rate of 10.5 per 1,000 in 2021.

Discrimination: Women enjoy the same legal status and rights as men. The law prohibits discrimination against women and obligates the government to promote political, economic, social, and cultural equality. The law requires that women and men receive equal pay for equal work. The government enforced the laws effectively, although an official study reported a pay gap of 13 percent for highly skilled jobs, which remained largely male dominated.

Systemic Racial or Ethnic Violence and Discrimination

The constitution establishes that the country is a multiethnic and multicultural nation. The government enforced the law effectively. On June 22, the government appointed a commissioner for social inclusion for issues related to disability, the rights of Afrodescendants, indigenous individuals, and the LGBTQI+ community.

On April 25, then President Alvarado signed an amendment to the criminal code that increases prison sentences to between 20 and 35 years for hate-motivated crimes. The reform stipulates that crimes motivated by race, age, religion, nationality, political opinion, disability, or sexual orientation are to be considered as qualified homicide.

On March 2, a UN independent expert noted that women, Afrodescendants, indigenous individuals, and LGBTQI+ persons continued to face discrimination in many areas, and an increased inflow of migrants and refugees from neighboring countries led to the rise of xenophobic and hate speech, particularly on social media.

Indigenous Peoples

Land ownership continued to be a problem in most indigenous territories. The law protects reserve land as the collective, nontransferable property in 24 indigenous territories; however, 38 percent of that land was in nonindigenous hands.

In April authorities concluded the first studies of properties in the territories of Cabagra (southern zone) and Maleku (northern zone) as part of a plan for the recovery of indigenous territories, designed to comply with the 1977 indigenous law obligating the return of land to indigenous communities. As of April, authorities were awaiting a resolution from the Comptroller General's Office to allow the government to compensate the current landholders of three properties, two of which were acquired after the 1977 indigenous law, and transfer registration to indigenous development associations.

On October 19, the Constitutional Chamber of the Supreme Court of Justice ratified a prior ruling of the First Chamber of the Supreme Court stating the government was not obligated to compensate nonindigenous persons who acquired indigenous land after the entry into force of the 1977 indigenous law, and it considers such land acquisitions null and void. As of November, the government was waiting for the publication of the complete ruling from the Constitutional Chamber to assess the extent of the decision and then adjust the Plan to Recover Indigenous Territory accordingly.

On June 5, an unknown assailant shot at the car of the president of the indigenous development association of the Bajo Chirripo Cabecar indigenous community, Adrian Sanabria Payan. On June 7, the deputy prosecutor for indigenous affairs announced court-ordered measures against a nonindigenous person suspected of involvement in the attack. Authorities believed a land dispute was the motive for the shooting. In February another indigenous person, Leonel Garcia, denounced

death threats against himself and his son-in-law by a nonindigenous landowner from the area. In 2021 nonindigenous persons attacked Garcia with a machete, sending him to intensive care for two weeks.

In May the UN special rapporteur on the rights of indigenous peoples expressed concern regarding reports of police use of tear gas against Cabecar indigenous persons in the China Kichá territory and failure to hold accountable perpetrators of violence against members of the community. More than 370 individuals from 150 organizations signed a petition to the authorities regarding the violence they suffered at the hands of police and nonindigenous persons. On April 30, Dario Rios, the son of Cabecar leader Doris Rios, was stabbed, and activists denounced several other attempted killings reportedly stemming from land conflicts between nonindigenous and indigenous persons. Activists condemned police inaction in the face of such attacks, arbitrary detentions, and beatings of persons from the Cabecar community.

A September 28 report by the UN special rapporteur on the rights of indigenous peoples regarding his December 2021 visit to the country emphasized the government needed to address structural problems to guarantee indigenous individuals' rights to their lands, territories, and natural resources; respect their governance structures; create effective and appropriate government-indigenous community consultation mechanisms; and realize indigenous economic, social, and cultural rights. The special rapporteur expressed concerns regarding structural racism within the judiciary, especially at the local level, a lack of effective measures to protect human rights defenders, and impunity for crimes committed against land defenders.

Children

Birth Registration: Citizenship is obtained from birth within the country's territory or can be derived if either parent is Costa Rican. Birth registration was provided on a nondiscriminatory basis. Migrant children were at risk of statelessness because they did not have access to legal documents to establish their identity if their parents did not register their births.

Child Abuse: The autonomous National Institute for Children reported violence

against children and adolescents continued to be a concern.

Child, Early, and Forced Marriage: The minimum legal age of marriage is 18, and child marriage is prohibited.

Sexual Exploitation of Children: The law criminalizes the commercial sexual exploitation of children and provides sentences of up to 16 years in prison for violations. The law provides for sentences of two to 10 years in prison for statutory rape and three to eight years in prison for child pornography. The law establishes penalties for sex with minors of up to three years in prison for an adult having sex with a person younger than age 15 or younger than 18 if the age difference is more than five years. The law establishes a statute of limitations of 25 years for sexual crimes against minors. The minimum age of consensual sex is 18 years. The country was a destination for child sex tourism.

Antisemitism

The Jewish Zionist Center estimated there were between 3,000 and 3,500 Jewish persons in the country. There were isolated reports of antisemitic comments on social media.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: There are no laws that criminalize consensual same-sex sexual conduct between adults or so-called cross-dressing laws that target transgender and nonbinary persons.

Violence against LGBTQI+ Persons: There were no reports that police or other government agents incited, perpetrated, condoned, or tolerated violence against LGBTQI+ individuals or those reporting such abuse. There were instances of

nonstate actor violence targeting LGBTQI+ persons. In January, police opened an investigation into a possible hate crime motivated by the sexual orientation of an individual in Guanacaste.

Discrimination: No law explicitly prohibits discrimination based on sexual orientation, gender identity or expression, or sex characteristics, or recognizes LGBTQI+ individuals, couples, and their families. Discrimination against persons based on sexual orientation and gender identity is prohibited by a series of executive orders and workplace policies but not by national laws. The government enforced such provisions. On June 15, a juvenile court approved the adoption of a child by a same-sex couple, establishing that the requirements for adoption are the same regardless of the sexual orientation of a couple.

There were cases of discrimination against persons based on sexual orientation, ranging from employment and discrimination by police to access to education and health-care services. LGBTQI+ individuals experienced discrimination within their own families due to their sexual orientation, gender identity or expression, and sex characteristics.

Availability of Legal Gender Recognition: Legal gender recognition is available. The government allows individuals to change their gender identity marker on legal documents to bring them into alignment with their gender identity; however, the birth registration does not change. As of March 7, nonbinary persons may register as gender ‘X’ on their passports.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: There were isolated reports of the practice of so-called conversion therapy and the practice of performing unnecessary surgeries on intersex persons.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: There were no restrictions against freedom of expression, association, or peaceful assembly regarding LGBTQI+ matters.

Other Societal Violence or Discrimination

Although the law prohibits discrimination based on HIV and AIDS in health care,

housing, employment, and education, some discrimination was reported.

Labor discrimination towards HIV patients continued; some persons reported losing their jobs due to discrimination, their deteriorating health, or both, although the problem was not widespread. The government took no concrete steps to combat discrimination based on HIV or AIDS status despite having adopted a national strategic plan on HIV and AIDS (2016-21).

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities. The law establishes that persons with disabilities can access education, health services, public buildings, and transportation on an equal basis with others. The law also establishes a right to employment for persons with disabilities and sets a hiring quota of 5 percent of vacant positions in the public sector. The government did not effectively enforce the law.

Although the law mandates access to buildings for persons with disabilities, the government did not enforce this provision, and many buildings remained inaccessible to persons with disabilities. On August 5, the Constitutional Chamber ruled in favor of a petition for constitutional protection filed by a counselor with a disability from the municipality of Montes de Oca, who suffered discriminatory treatment. The elevator of the municipal building was out of service and to get to the room where the municipal sessions were held on the third floor of the building, she had to go upstairs. Due to the circumstances, she requested authorization to meet virtually until the elevator was repaired, but the municipality denied her request.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, bargain collectively, and conduct legal strikes. The government respected these rights. The law prohibits antiunion discrimination and provides for reinstatement of workers fired for union activity. Unions must register, and the law provides a

deadline of 15 days for authorities to reply to a registration request. The law permits foreign workers to join unions but prohibits them from holding positions of authority within the unions, except for foreign workers who are married to citizens of the country and have legally resided in the country for at least five years.

The labor code stipulates that at least 50 percent of the workers in an enterprise must vote to support a strike. The law, however, adds that even if there is no union at the enterprise or if the union lacks the support of 50 percent of the workforce, a strike may be initiated if 35 percent of the workers call for a vote by secret ballot. The law restricts the right to strike for workers in sectors such as oil refineries and ports that are not recognized as essential services under international standards. The law regulates strikes, including a prohibition on strikes by workers in nine essential public services, and allows employers to suspend the pay of essential public-service workers who are on strike.

The law also permits two other types of worker organizations: “solidarity associations,” legal entities recognized by the constitution that have both management and employee membership and serve primarily to administer funds for severance payments; and “permanent committees,” enterprise-level bodies made up of three workers elected to negotiate “direct agreements” with employers. Both entities may coexist and share membership with labor unions. The law also requires that permanent committee members be elected freely by secret ballot without intervention of the employer. The law prohibits solidarity associations from representing workers in collective bargaining negotiations or strikes.

The law requires employers to initiate the bargaining process with a trade union if more than one-third of the total workforce, including union and nonunion members, requests collective bargaining, but the law also permits direct bargaining agreements with nonunionized workers. The law establishes a scope of implementation and procedures for negotiations.

Although public-sector employees are permitted to bargain collectively, the Supreme Court held that some fringe benefits received by certain public employees were disproportionate and unreasonable, and it repealed sections of collective bargaining agreements between public-sector unions and government agencies, thus restricting this right in practice. A court’s decision ratified the ceiling of 12

years for severance pay when an employee is terminated.

The government effectively enforced applicable laws protecting freedom of association, collective bargaining, and the right to strike of workers. Penalties were commensurate with those for other laws involving denials of individual rights, such as discrimination. Penalties were regularly applied against violators. While the law establishes sanctions (fines and fees) for infractions, only the judiciary has the authority to apply such sanctions. Fines and fees are determined by the severity of the infraction and are based on the minimum wage. The law requires labor claims to be processed within two years and sets up a special summary procedure for discrimination claims. The law also provides labor union members protections against discrimination based on labor affiliation and special protections via special expedited proceedings.

Freedom of association and collective bargaining were sometimes respected. Labor unions asserted that employers sometimes required membership in a solidarity association as a condition for employment. Labor unions also asserted that solidarity associations set up and controlled permanent committees at many workplaces, which in turn conducted negotiations and established direct agreements, thus displacing trade unions. To the extent that solidarity associations and permanent committees displaced trade unions, they affected the independence of workers' organizations from employers' influence and infringed on the right to organize and bargain collectively. In recent years, the International Labor Organization (ILO) reported an expansion of direct agreements between employers and nonunionized workers and noted its concern that the number of collective bargaining agreements in the private sector continued to be low when compared with a high number of direct agreements with nonunionized workers.

In some instances, employers fired employees who attempted to unionize. The Ministry of Labor reported 15 allegations of antiunion discrimination from January to June. There were reports some employers preferred "flexible," or short-term, contracts, making it difficult for workers to organize and collectively bargain. Migrant workers in agriculture frequently were hired on short-term contracts through intermediaries (outsourcing), faced antiunion discrimination and challenges in organizing, and were often more vulnerable to labor exploitation. Although migrant workers outside the agriculture sector were able to unionize,

they were not able to participate as board members.

The ILO noted no trade unions operated in the country's export-processing zones and identified the zones as a hostile environment for organizing. Labor unions asserted that efforts by workers in export-processing zones to organize were met with illegal employment termination, threats, and intimidation and that some employers maintained blacklists of workers identified as activists.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor. The government effectively enforced the law. Forced labor of migrants occurred in the agricultural and domestic service sectors. Forced child labor reportedly occurred in some service sectors, such as agriculture, construction, fishing, street vending, and domestic service. Judicial authorities reported that criminal organizations took advantage of vulnerable minors, the majority of whom were male teenagers younger than 18, to involve them in illicit activities. Authorities suspected that adults used children to transport or sell drugs; some of these children may have been trafficking victims (see section 7.c.).

On August 9, the government carried out an act of public apology and acknowledgment after the Inter-American Commission on Human Rights drew attention to the country for the labor exploitation of a worker from the Child Welfare Agency, who in 2003 denounced that she worked up to 24 hours for 11 consecutive days.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

See the Department of Labor's *Findings on the Worst Forms of Child Labor* and *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

d. Discrimination with Respect to Employment and Occupation

Laws and regulations prohibit discrimination in employment and occupation regarding race, color, sex, religion, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status, or other communicable diseases status. The labor code prohibits discrimination based on age, ethnicity, gender, religion, race, sexual orientation, civil status, political opinion, nationality, social status, affiliation, disability, labor union membership, or economic situation. The government effectively enforced these laws and regulations, and penalties were commensurate with penalties related to civil rights. The Ministry of Labor relies on the judicial branch to apply sanctions and was unable to track the penalty application process through the court.

The Labor Ministry reported five cases of discrimination from January to July, one based on disability and four based on gender. The ministry continued to implement a gender-equality perspective into labor inspections to identify areas of vulnerability. The COVID-19 pandemic affected women's employment, with women suffering the greatest number of job losses. As of July, the unemployment rate for women reached 15 percent, compared with 9.7 percent among men. Women earned an average of 10 percent less than men in similar roles.

Discrimination in employment and occupation occurred with respect to persons with disabilities and the LGBTQI+ population. Discrimination against migrant workers from Nicaragua occurred, and there were reports of employers using threats of deportation to withhold wages.

e. Acceptable Conditions of Work

Wage and Hour Laws: The law provides for minimum wage for all sectors. The wage council of the Ministry of Labor sets the minimum wage scale for the public and private sectors twice a year. Monthly minimum wages were above the poverty line. The national minimum wage applied to both Costa Rican and migrant workers. The law sets workday hours, overtime remuneration, days of rest, and annual vacation rights. Workers generally may work a maximum of eight hours a day or 48 hours weekly. Workers are entitled to one day of rest after six consecutive days of work, except in the agricultural sector, and annual paid

vacations. The law provides that workers be paid for overtime work at a rate 50 percent above their stipulated wage or salary. Although there is no statutory prohibition against compulsory overtime, the labor code stipulates the workday may not exceed 12 hours, except in the agricultural sector when there is “imminent risk of harm...to the harvest” when work cannot be suspended and workers cannot be substituted.

Occupational Safety and Health: The Labor Ministry’s National Council of Occupational Health and Safety is a tripartite occupational safety and health standards (OSH) regulatory authority with government, employer, and employee representation. OSH standards are appropriate for the main industries in the country, and OSH experts actively identified unsafe conditions, including lack of personal protective equipment against COVID-19, in addition to responding to workers’ complaints.

The responsibility for identifying unsafe situations remained with the Labor Ministry’s OSH experts and not the worker. Workers may remove themselves from situations that endanger health or safety without jeopardizing their employment. According to the Labor Ministry, this is a responsibility shared by the employer and employee. The law assigns responsibility to the employer, including granting OSH officers access to workplaces, but it also authorizes workers to seek assistance from appropriate authorities (OSH or labor inspectors) for noncompliance with OSH workplace standards, including risks at work. The responsibility for occupational accidents and diseases falls on the insurance policy of the employer.

There were reports that agricultural workers, particularly migrant laborers in the pineapple industry, worked in unsafe conditions, including exposure to hazardous chemicals without proper training. The national insurance company reported 64,962 cases of workplace-related illnesses and injuries and 54 workplace fatalities from January to June.

Wage, Hour, and OSH Enforcement: The government effectively enforced minimum wage and overtime laws mainly in the formal sector. Penalties were commensurate with those for similar crimes, such as fraud or negligence. Penalties were regularly applied against violators. The Ministry of Labor generally enforced

minimum wages, overtime, and OSH laws effectively in the San Jose area but less effectively in rural areas, particularly where large numbers of migrants were employed, and in the large informal sector. The ministry publicly recognized that many workers, including in the formal sector, received less than the minimum wage, mainly in the agricultural sector.

The Ministry of Labor's Inspection Directorate is responsible for labor inspection, in collaboration with the Social Security Agency and the National Insurance Institute. The directorate employed labor inspectors, who investigated all types of labor violations. The number of labor inspectors was insufficient to enforce compliance. According to the Ministry of Labor, inspections occurred both in response to complaints and at the initiative of inspectors. The directorate stated it could visit any employer, formal or informal, and inspections were always unannounced.

The Labor Ministry generally addressed complaints by sending inspection teams to investigate and coordinate follow-up actions. As with other labor laws, inspectors cannot fine or sanction employers who do not comply with laws on acceptable conditions of work; rather, they investigate and refer noncompliance results to labor courts. The process of fining companies or compelling employers to pay back wages or overtime was habitually subject to lengthy delays.

Observers expressed concern regarding exploitative working conditions in fisheries, small businesses, and agricultural activities. Unions also reported systematic violations of labor rights and provisions concerning working conditions, overtime, and wages in the export-processing zones. Labor unions reported that overtime pay violations, such as nonpayment of wages and mandatory overtime, were common in the private sector and particularly in export-processing zones and agriculture. Observers expressed concerns that the pineapple industry generally established long working hours for employees, in which there were constant exposures to chemicals; additionally, adequate measures were not taken to protect workers and inform them of the consequences of the use of pesticides.

Informal Sector: Approximately 44 percent of the workforce operated in the informal economy, according to government estimates. Workers in the informal sector, including part-time workers, were not covered by wage, hour, and OSH

laws and inspections, nor were they enrolled in the public health service. Most informal workers worked in the service sector, which includes commerce, domestic service, transportation, storage, accommodation, and food services.